IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

Crl.MC.No. 1731 of 2007()

CRMP.1934/2007 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II,PATHANAMTHITTA

.....

PETITIONER:

PRAKASH, THUNDIYIL VEEDU,
MANGARAM MURY, KONNY.

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENTS:

---

1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
KONNI.

BY P.P. SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1731 OF 2007

Dated this the 4th day of June, 2007

ORDER

The petitioner has come to this Court complaining about the onerous nature of the condition imposed by the learned Magistrate while directing release of the vehicle to the petitioner. The vehicle was allegedly involved in illicit transportation of river sand. The same vehicle was earlier involved in an identical incident and after seizure, it was released to the petitioner by the authorities. As the vehicle was being used for commission of the offence on the 2nd occasion, that too after getting release in the earlier matter, the learned Magistrate took a serious view and directed that the petitioner must produce bank guarantee for an amount of Rs.1,30,000/- being the value of the vehicle. The learned counsel submits that this order is not fair and just. The condition imposed is too onerous. Maximum sentence of fine that is imposable for the alleged offence is only Rs.25,000/. In

these circumstances, the condition of production of bank guarantee may suitably be modified, submits the learned counsel for the petitioner.

2. The learned Public Prosecutor, on instructions, opposes the application; but, in the course of discussions, submits that the State will have no objection if the petitioner were directed to deposit an amount of Rs.50,000/- also as security for compliance with the condition imposed deleting the condition for production of bank guarantee.

3. After considering all the relevant inputs, I am persuaded to agree that the conditions imposed can be modified. It is directed that the petitioner need not produce any bank guarantee. It shall be sufficient if he executes a bond for Rs.1,30,000/- with two solvent sureties each for the like sum and also deposits an amount of Rs.50,000/- as cash security before the learned Magistrate.

4. This petition is, accordingly, allowed to the above extent.

Sd/-

(R. BASANT, JUDGE)

Nan/ //true copy// P.S. To Judge